

**Before:**

**Metis Settlements Appeal Tribunal**

**Land Access Panel**

**Between:**

**Julia Bergen,**

**Applicant**

**-and-**

**Paddle Prairie Metis Settlement,  
Sunstar Resources Inc., Calver Resources Inc.,  
and  
Metis Settlements General Council**

**Respondents**

**Concerning:**

**Recovery of Compensation**

**Hearing Date:**

**June 21, 2016**

**Decision Date:**

**June 30, 2016**

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**DECISION**

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**The Hearing – parties, place and date**

**MSAT Panel members:**

Lorne Dustow, Panel Chair  
Phyllis Collins, Panel Member  
Cody Hodgson, Panel Member

**Parties present at the hearing:**

Julia Bergen, Applicant

Paddle Prairie Metis Settlement, Respondent  
Carmen Laboucane, Councillor

**Observers:**

Theresa Houle (via tele-conference)  
James Ghostkeeper  
Phillip Ghostkeeper  
Robert Ghostkeeper  
Marie Dustow

**MSAT staff present:**

BJ Simpson, Dispute Resolution Officer  
Karen Mustus, Oil and Gas Officer

**Place and date of the Hearing:**

Council Chambers  
Paddle Prairie Metis Settlement  
June 21, 2016 at 10:00 AM

[1] The Land Access Panel of the Metis Settlements Appeal Tribunal held a hearing on June 21, 2016 to consider an application under Section 121 of the *Metis Settlements Act*.

[2] The Appeal Tribunal's Rules of Procedure allow each Panel the discretion over the hearing and decision making process. Given the overlapping issues and evidence, the Panel held one open hearing. Each party spoke to the shared issues and evidence and also talked about his or her particular circumstance. The Panel elected to issue separate decisions for each appellant.

## **1.1 Background**

[3] Julia Bergen, the Applicant, filed an application under s. 121 of the *Metis Settlements Act* on April 13, 2016, for the recovery of annual rental for January 15, 2016, to January 14, 2017 (\$3,160.16).

[4] The payment of arrears in annual rental is with respect to a Surface Lease Agreement dated January 15, 2007 located in L.S. 10-35 in NE 35-102-23-W5M being land held by Julia Bergen. The interest held is a Metis Title.

[5] The Surface Lease Agreement operates under a Joint Venture Agreement entered into by SunStar Resources Inc. (SunStar) and Calver Resources Inc. effective October 31, 2005.

## **1.2 Issues**

[6] The issues before the Panel are:

- 1) Is there money due and payable by the Operator to the Applicant under a surface lease?
- 2) Does the evidence satisfactorily prove non-payment?
- 3) Should the Panel direct the President of Treasury Board and Minister of Finance to pay out of the General Revenue Fund the amount of money to which the Applicant is entitled, pursuant to s. 121(2) of the *Metis Settlements Act*?

### 1.3 Decision

- [7] 1) The amount of \$3,160.16 is payable to the Applicant by the Operator under the Surface Lease dated January 15, 2007. The Applicant has not been paid for the period January 15, 2016 to January 14, 2017.
- 2) The Panel directs the President of Treasury Branch and Minister of Finance to pay compensation of \$3,160.16 out of the General Revenue Fund to the Applicant pursuant to s. 121(2) of the *Metis Settlements Act*.

### 1.4 Reasons for Decision and Findings of Fact

[8] The Metis Settlements Land Registry Land Search report shows Julia Bergen holds Metis Title to the NE 35-102-23-W5M.

[9] The Panel finds that the total of \$3,160.16 is owing to the Applicant from the Operator for the annual payment for January 15, 2016 to January 14, 2017.


[10] Based on the Joint Venture Agreement, dated October 31, 2005, the Panel finds SunStar Resources Inc. and Calver Resources Inc. to be the "operator".

[11] The Panel notes that the Site has not been reclaimed and accordingly the Surface Lease remains in effect.

### 1.5 Order

[12] The Panel directs the President of Treasury Board and Minister of Finance to pay Julia Bergen \$3,160.16.

Dated in the City of Edmonton, in the Province  
of Alberta on this 30<sup>th</sup> day of June, 2016.

  
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for Lorne Dustow  
Panel Chair

**APPENDIX A**

*Metis Settlements Act, RSA 2000, Chapter M-14*

111 In this division,

...

(h) "occupant" means:

- (i) a settlement council,
- (ii) the person in actual possession of a parcel of patented land, and
- (iii) a person having a right or interest in patented land that is registered in the Metis Settlements Land Registry.

(i) "operator" means the person who authorized or permitted to engage in an authorized project.

**Recovery of compensation**

121(1) If an existing mineral lease holder or operator fails to pay money

- (a) under a surface lease, or
- (b) ordered to be paid by the Existing Leases Land Access Panel or the Land Access Panel,

within 30 days of the date it is due, the person entitled to receive the money may submit to the Land Access Panel evidence of the failure to pay.

(2) On receipt of satisfactory evidence of failure of the existing mineral lease holder or operator to pay, the Land Access Panel may direct the President of Treasury Board and Minister of Finance to pay out of the General Revenue Fund the amount of money to which the person is entitled.

(3) If the President of Treasury Board and Minister of Finance pays money to a person under this section, the amount paid constitutes a debt owing by the existing mineral lease holder or the operator to the Crown in right of Alberta.

(4) If a surface lease and a development agreement are combined in one document, this section applies only to that part of the document concerning the surface lease.